

**MINUTES OF THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Ernie Pete Ortega v. Charles L. Ryan, et al

THE HONORABLE JOHN W. SEDWICK

2:11-cv-00359 JWS (MHB)

PROCEEDINGS:

ORDER FROM CHAMBERS

March 12, 2012

Pursuant to 28 U.S.C. § 2254, Ernie Pete Ortega (“petitioner”) seeks a writ of habeas corpus. After briefing, Magistrate Judge Michelle H. Burns, to whom the matter had been referred, recommended that the petition be denied and dismissed with prejudice in her report at docket 25. Petitioner filed objections at docket 26.

Respondents did not reply to the objections.

This court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1). When reviewing a magistrate judge’s recommendations in cases of this type, the district judge reviews all recommended conclusions of law, and any recommended findings of fact to which objections have been taken *de novo*. Recommended findings of fact as to which no objection has been taken are reviewed for clear error.

Having applied the standards of review articulated in the preceding paragraph, this court finds that the recommended findings of fact and conclusions of law are correct in all material respects. There is nothing in petitioner’s objections not adequately covered in the report from Magistrate Judge Burns. This court adopts the recommendations from the magistrate judge. Based thereon, the petition is **DENIED and dismissed with prejudice**.

IT IS FURTHER ORDERED that this court will not grant the Certificate of Appealability required by 28 U.S.C. § 2253(c), nor will it grant leave to proceed on appeal *in forma pauperis*, because dismissal of the petition is clearly warranted by a plain procedural bar, and jurists of reason would not find the procedural bar debatable. If petitioner desires to take an appeal he must request a Certificate of Appealability from the Court of Appeals. See Fed. R. App. P. 22(b)(1).
